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August 5, 2016

VIA CERTIFIED MAIL, E-MAIL, AND FACSIMILE

United States Environmental Protection Agency
Regional Freedom of Information Officer
U.S. EPA, Region 9
75 Hawthorne Street (OPPA-2)
San Francisco, CA 94105
FAX (415) 947-3591
E-mail: r9foia@epa.gov

Re: **Freedom of Information Act ("FOIA") Request**
May 23, 2008 Determination Regarding Santa Cruz River Reaches

Dear Sir or Madam:

This firm represents Rosemont Copper Company ("Rosemont"). On behalf of Rosemont, we request that the United States Environmental Protection Agency ("EPA") provide the following information pursuant to the Freedom of Information Act, 5 U.S.C. 552 relating to the determination made by Colonel Thomas H. Magness, the District Engineer for the Army Corps of Engineers ("USACE") Los Angeles District, on or about May 23, 2008, that two reaches of the Santa Cruz River in southern Arizona are traditional navigable waters. Colonel Magness' determination was subsequently reviewed by EPA, and Benjamin H. Grumbles, the Assistant Administrator of the EPA, found Colonel Magness' determination to be supported by evidence that is clearly documented, and not insubstantial nor speculative, and consistent with the provisions of the December 2008 *Rapanos* guidance. With respect to these determinations regarding the navigability of the Santa Cruz River, we request copies of the following:

1. Copies of all records of communications between any officials, officers, staff and employees of the USACE and any officials, staff and employees of the EPA relating to or otherwise concerning the determination made by Colonel Magness in 2008 that two reaches of the Santa Cruz River are traditional navigable waters.
2. Copies of each and every study, report, formal paper, written analysis, memorandum, compilation of data, provided by the USACE to the EPA in 2008 relating to or otherwise

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concerning the determination made by Colonel Magness in 2008 that two reaches of the Santa Cruz River are traditional navigable waters.

3. Copies of each and every study, report, formal paper, written analysis, memorandum, compilation of data and other document that the EPA considered in connection with Mr. Grumbles' finding that Colonel Magness' determination in 2008 that two reaches of the Santa Cruz River are traditional navigable waters is supported by evidence that is clearly documented, and not insubstantial nor speculative, and is consistent with the provisions of the December 3, 2008 *Rapanos* guidance.
4. Copies of all documents concerning or otherwise relating to any amendment, revision, or alteration of Mr. Grumbles' finding that Colonel Magness' determination that two reaches of the Santa Cruz River are traditional navigable waters is supported by evidence that is clearly documented, and not insubstantial nor speculative, and is consistent with the provisions of the December 3, 2008 *Rapanos* guidance.

We will pay up to \$500 for document search, duplication, and review. We can make advance payment if required. Should the expected cost exceed \$500, please notify me before exceeding this limit.

In order to simplify the process and reduce costs, we request that you provide us with electronic copies of the requested documents on a CD, DVD, or USB drive. Alternatively, I hereby request that the EPA make the requested documents available for inspection. My mailing address and other contact information are as follows:

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One South Church Avenue, Suite 1000
Tucson, AZ 85701-1627
Tel: 520.879.6827
Email: sdmcdona@fclaw.com

If you deny any part of this request, please provide a general description of the document or information being withheld and provide each specific reason that you believe justifies your refusal to release the information. The documents will not be reproduced or otherwise used for a commercial purpose.

Please contact me immediately if you have any questions about this request or anticipate any difficulty in fulfilling the request within twenty days.

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Thank you for your assistance.

Very truly yours,

FENNEMORE CRAIG, P.C.

/s/ Scott McDonald

Scott McDonald

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